



PUBLIC NOTICE

Federal Communications Commission
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November 25, 2005

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR
WAIVER BY MILWAUKEE METROPOLITAN SEWERAGE DISTRICT TO EXPAND FIXED
OPERATION ON A PRIMARY BASIS IN THE 450-470 MHz BAND**

Comment Date: December 27, 2005

Reply Date: January 11, 2006

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks comment on a waiver request filed by the Milwaukee Metropolitan Sewerage District ("the District") in conjunction with two applications to expand its fixed wireless Supervisory Control and Data Acquisition (SCADA) system. On November 3 and 30, 2004, the District filed FCC File Nos. 0001923176 and 0001953696, respectively, requesting a total of eight frequencies in the 450-470 MHz band, accompanied by a waiver request. First, the District seeks to operate fixed stations on a primary basis using land mobile frequencies. Second, the District requests to utilize gain antennas. Third, the District requests to operate hundreds of remote stations at temporary locations for more than one year without individually licensing each unit. The District states that grant of the requested waivers will not affect any incumbent stations and will promote the public interest.

By way of background, the District operates and maintains a sewerage system that serves most of Milwaukee County, Wisconsin, and parts of four surrounding counties. The District relies on a fixed wireless telemetry and control system to monitor and control water levels and flow within the sewer system, in order to comply with environmental regulations, protect the environment and public health, and mitigate flooding. On February 11, 2004, the Wireless Telecommunications Bureau, Public Safety and Critical Infrastructure Division (Division) granted a waiver request to the District to use four frequency pairs at four fixed locations on a primary basis.¹ As a result, the District now operates on frequency pairs 453/458.475, 453/458.850, and 453/458.925 MHz under Station WPZP631 and frequency pair 453/458.750 MHz under Station WPZP657. The grant to the District was conditioned on noninterference to the Wisconsin Department of Transportation's Station KNJW977 on frequency pairs 453/458.475 and 453/458.925 MHz. The District now proposes to expand its radio system by adding frequency pair 453/458.100 MHz at four fixed locations and frequency pair 453/458.650 MHz at three different fixed locations to serve remote facilities not sufficiently served by the existing stations. In addition, the District proposes to use frequencies 458.100 and 458.650 MHz for a total of 600 temporary fixed, low power, remote stations. Finally, the District proposes to use four frequencies from its previous grant, 458.475, 458.750, 458.850, and 458.925 MHz, for control stations.

Section 90.261(a) of the Commission's Rules, 47 C.F.R. § 90.621(a), permits fixed use in the 450-470 MHz band on a secondary basis to land mobile operations. The District requests primary status

¹ See Milwaukee Metropolitan Sewerage District, *Order*, 19 FCC Rcd 2623 (WTB PSCID 2004) (*Order*).

because the proposed system would not be able to tolerate excessive interference or service interruptions that might accompany secondary status, and thus requests a waiver. Section 90.261(c) of the Commission's Rules, 47 C.F.R. § 90.261(c), requires that fixed stations employ directional antennas with a front-to-back ratio of 15 dB, except that omnidirectional antennas with unity gain may be used under certain conditions. The District requests a waiver of this rule section to permit it to use omnidirectional antennas with gains ranging from 0 dB to 20 dB in order to adequately serve the intended service area. In support of its request, the District submitted contour overlap analyses of incumbent co-channel and adjacent channel stations. Section 90.137(b) of the Commission's Rules, 47 C.F.R. § 90.137(b), requires that when any fixed or base station unit(s) authorized at temporary locations remains in operation at the same location for more than one year, the user shall file an application for a separate authorization specifying the fixed location. The District requests a waiver of this rule because it anticipates operating at least 600 remote monitoring or control stations throughout its system. The District believes that individually licensing these low power, low elevation stations would be overly burdensome to both the District and the Commission.²

Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925 provides that a waiver of the Commission's Rules may be granted if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or if the applicant has no reasonable alternative.

Interested parties may file comments on the District's Waiver Requests on or before December 27, 2005. Parties interested in submitting reply comments must do so on or before January 11, 2006. All comments should reference the Milwaukee Metropolitan Sewerage District's Waiver Request, including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-325, Washington, D.C. 20554.³

The District's applications and waiver requests can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the waiver request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.com>, by email at fcc@bcpweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563.

² We note that the Division granted a waiver of Sections 90.261(a) and (c) in the previous *Order* with respect to the frequencies that were the subject thereof.

³ This address should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

For further information regarding the public reference file for this waiver request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Mr. Tom Eng of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to Thomas.Eng@fcc.gov.

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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